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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2010-586*

13 **JOSHUA PATRICK SEYMOUR**
14 **A.K.A. JOSHUA P. SEYMOUR**
15 **P.O. Box 1001**
16 **Pacifica, CA 94044**

A C C U S A T I O N

17 **Registered Nurse License No. 666988**

18 **Respondent.**

19 **Complainant alleges:**

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 2. On or about October 4, 2005, the Board of Registered Nursing issued Registered
25 Nurse License Number 666988 to Joshua Patrick Seymour, also known as Joshua P. Seymour
26 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
27 the charges brought here and will expire on September 30, 2011, unless renewed.

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1 8. California Code of Regulations, title 16, section 1444 states:

2 "A conviction or act shall be considered to be substantially related to the qualifications,
3 functions or duties of a registered nurse if to a substantial degree it evidences the present or
4 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
5 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

6 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
7 subdivision (d) of Penal Code Section 11160.

8 "(b) Failure to comply with any mandatory reporting requirements.

9 "(c) Theft, dishonesty, fraud, or deceit.

10 "(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
11 Penal Code."

12 COST RECOVERY

13 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request
14 the administrative law judge to direct a licensee found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 FIRST CAUSE FOR DISCIPLINARY ACTION

18 (Unprofessional Conduct)
(Bus. & Prof. Code §2761(a))

19 10. Respondent has subjected his Registered Nurse License to disciplinary action for
20 unprofessional conduct under Code section 2761(a). The circumstances are as follows:

21 a. On or about July 5, 2008, male victim, K. M.¹, replied to an advertisement on
22 Craigslist.com from a couple requesting to meet a male for a "consensual encounter." K. M.
23 received a reply back from the couple (Respondent and his girlfriend, M. J. M.) and agreed to
24 meet them at Houlihan's bar in South San Francisco, California. At the bar, the three consumed
25 wine and agreed to rent a room at a nearby Holiday Inn hotel to have sex. At the Holiday Inn,
26 they entered room #325 and disrobed. While they were in bed, Respondent asked K. M. to

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28 ¹ The victims will be referred to by initials only in order to preserve confidentiality.

1 perform oral sex on M. J. M., Respondent's girlfriend. K. M. refused and Respondent became
2 upset and started yelling, "Fuck you mother fucker, I'll fucking kill you!" K. M. remained on the
3 bed and Respondent threw wine at his face. Respondent also threw a glass at K. M. and hit him
4 on the back of his head, causing the glass to break. Respondent then turned to his girlfriend and
5 started slapping her. K. M. got up from the bed and Respondent told him, "Sit down and shut
6 up." Respondent told K. M. that he (K. M.) was going to regret this and Respondent started
7 breaking things in the room. K. M. ran out of the hotel room in his underwear, went to the hotel
8 lobby and told its manager, "that guy is crazy, call the police." The manager escorted K. M. to
9 the second floor, but K. M. refused to go with the manager to the third floor where room #325 is
10 located.

11 b. As he approached room #325, the manager encountered M. J. M., who was hiding
12 behind a vending machine in front of the elevator. The manager asked M. J. M. to get inside the
13 elevator with him. She agreed. The manager then started walking toward room #325 and
14 observed a white male walking in the hallway towards the elevator. He asked the white male
15 whether he was coming from room #325 and the white male (later identified as Respondent) said
16 "no." The manager observed what appeared to be blood on Respondent's hands. The manager
17 continued to walk to room #325. The manager entered inside room #325 and noticed broken
18 glass all over the floor. The manager returned to the elevator and observed Respondent grab
19 M. J. M. in the elevator and begin to walk with her to the hallway. The manager followed them
20 and heard Respondent saying, "I can't believe you are doing this with that guy." Respondent had
21 a wallet and was showing his girlfriend a photograph of K. M. when he was making that
22 statement. They all took the elevator to the first floor. The female victim, M. J. M., stayed in the
23 lobby. Thereafter, Respondent left the hotel and the manager lost sight of him in the parking lot.
24 The manager escorted K. M. back to room #325. K. M. discovered that his wallet, three credit
25 cards and his two car keys were missing from the room. When the manager returned to the lobby,
26 the female victim, M. J. M., had left.

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1 c. Respondent damaged the following items at the Holiday Inn: the lamp on
2 nightstand, three pictures, an entry way mirror, a coffee maker, a headboard, a nightstand, an
3 alarm clock, a television, the wall (there were holes in it), a mattress (stained with red wine),
4 pillows, the bedspread was ruined, a desk lamp, towel rack holders, and a broken phone. The
5 total damages were assessed at two thousand and ten dollars (\$2,010.00).

6 d. The District Attorney's Office charged Respondent was charged with violating
7 Penal Code section 484 (theft of personal property having a value not exceeding \$400.00), a
8 misdemeanor, Penal Code section 594(b)(1) (vandalism), a misdemeanor, and two counts of
9 violating Penal Code 242 (battery), misdemeanors. Respondent was later convicted of violating
10 Penal Code section 594(b)(1) (see below).

11 SECOND CAUSE FOR DISCIPLINARY ACTION

12 (Conviction)
(Bus. & Prof. Code §2761(f))

13 11. Respondent has subjected his Registered Nurse License to disciplinary action
14 under Code sections 490 and 2761(a) and California Code of Regulations, title 16, section 1444 in
15 that he was convicted of a crime substantially related to the qualifications, functions, or duties of
16 a registered nurse. Specifically, on or about July 20, 2009, in the Superior Court of California,
17 County of San Mateo, Northern Branch, Case Number NM378418A, entitled *The People of the*
18 *State of California v. Joshua Patrick Seymour*, Respondent was convicted by his plea of nolo
19 contendere of violating Penal Code section 594(b)(1) (vandalism), a misdemeanor. Respondent's
20 plea agreement included a "Harvey Waiver," which allows the sentencing court to consider the
21 dismissed counts in the Amended Complaint. Respondent was placed on Court Probation for two
22 years on terms and conditions that included, but were not limited to, serving five days in County
23 Jail, obeying all laws, paying a court fine of \$160.00 by September 2, 2009, making restitution for
24 damages in the amount and manner to be determined by the Probation Department, completing 32
25 hours of Anger Management program and showing proof of completion by January 20, 2010, and
26 not contacting, calling or otherwise communicating with K. M.

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THIRD CAUSE FOR DISCIPLINARY ACTION
(Unprofessional Conduct)
(Bus. & Prof. Code §2761(a))

12. Respondent has subjected his Registered Nurse License to disciplinary action for unprofessional conduct under Code section 2761(a). The circumstances are as follows:

a. On or about September 20, 2009, at approximately 10:30 p.m., at the Holiday Inn in San Jose, California, Respondent punched a female victim, M. J. M.², in her face and strangled her throat several times. When Holiday Inn night manager received a call from another customer reporting that water was dripping from the ceiling in the hallway, the manager went upstairs and noticed that the carpet was wet in front of room #326 (the room occupied by Respondent and M. J. M.). The manager knocked on the door and a naked male (later identified as Respondent) answered. Respondent said that nothing was wrong. Immediately, from inside the room, a female (later identified as M. J. M.) started yelling, "I need help, I need help." The female attempted to push passed the male. Respondent, using his arm, prevented M. J. M. from leaving and closed the door. The manager then called the police and remained in the hallway to wait for them. A few minutes later, the door to the room opened again and Respondent pushed the victim out into the hallway wearing only a towel. The manager stayed with the victim while they waited for the police to arrive. While waiting for the police, the manager heard a lot of noise and banging coming from the room. Respondent reappeared outside the room and was bleeding from his face and neck. Respondent told the manager, "I'm just coming out to catch my breath." Respondent then went back in the room and shut the door. Respondent did not have any injuries when the manager first encountered him. The police arrived shortly thereafter.

b. When the officers arrived, they entered room #326, detained Respondent, and placed handcuffs on him. A San Jose Police Department (SJPD) Officer saw Respondent in Holiday Inn room #326 sitting in a chair wearing red hospital pants, a black t-shirt and nothing on his feet. Respondent had blood on his head, neck, face and hands. There was blood on the walls

² M. J. M. is the same person who was victimized at the other Holiday Inn incident, as set forth in paragraph 10, above. On September 20, 2009, M. J. M. was 22 weeks pregnant with Respondent's child.

1 and floor and the bed linens were stained with blood. There was also a broken and bloody
2 drinking glass on the bathroom floor and a bloody butter knife on the bed.

3 c. The female victim, M. J. M.'s face was bruised and swollen and her eyes were
4 swollen shut from Respondent's closed fist punches. She also had bruises and scratches on her
5 back and abrasions on both knees. M. J. M. reported that after returning from the Holiday Inn bar
6 where she and Respondent had consumed a couple of drinks together, she noticed that
7 Respondent was "not acting right." Once they returned to their hotel room, Respondent began to
8 push M. J. M. around the room. She attempted to leave the hotel room but was blocked by
9 Respondent. Respondent began to slap her in the face, punch her, throw her onto the bed, and
10 punch her face in a downward motion. M. J. M. noticed blood coming from her mouth.
11 Respondent placed his hands on her throat and began to strangle her. M. J. M. became short of
12 breath and began grasping for air. A SJPD Officer reported that M. J. M. had bruises on her neck,
13 consistent with being strangled.

14 d. According to M. J. M., she repeatedly called out for help, attempted to use the
15 hotel room phone to call 911, and attempted to go to the balcony and call for help. Each time,
16 Respondent restricted her movement. Respondent ripped off M. J. M.'s dress, leaving her naked.
17 Respondent forced her into the shower, turned on the shower and prevented her from leaving the
18 shower and bathroom. Respondent later left the bathroom. M. J. M. exited the bathroom and
19 found the hotel night manager standing at the door.

20 e. The District Attorney's Office charged Respondent was charged with violating Penal
21 Code section 245(a)(1) (assault with a deadly weapon, other than a firearm, likely to cause great
22 bodily harm), a felony. Respondent was later convicted of violating Penal Code section 245(a)(1)
23 (see below).

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1 FOURTH CAUSE FOR DISCIPLINARY ACTION

2 (Conviction)
3 (Bus. & Prof. Code §2761(f))

4 13. Respondent has subjected his Registered Nurse License to disciplinary action under
5 Code sections 490 and 2761(f) and California Code of Regulations, title 16, section 1444 in that
6 he was convicted of a crime substantially related to the qualifications, functions, or duties of a
7 registered nurse. Specifically, on or about December 23, 2009, in the Superior Court of
8 California, County of Santa Clark, Case Number CC955665, entitled *The People of the State of*
9 *California v. Joshua Patrick Seymour, aka Joshua P. Seymour*, Respondent was convicted by his
10 plea of nolo contendere of violating Penal Code section 245(a)(1) (assault with a deadly weapon,
11 other than a firearm, likely to cause great bodily harm), a felony. Respondent's plea agreement
12 included a written waiver in which he stipulated that there is a factual basis for his plea based
13 upon the police report. Respondent was placed on probation for five years upon terms and
14 conditions, which included, but were not limited to, serving 10 months in county jail, with the
15 time reduced to serving 4 months in county jail, and then transferring to the Salvation Army
16 program for 6 months.

17 FIFTH CAUSE FOR DISCIPLINARY ACTION

18 (Unprofessional Conduct)
19 (Bus. & Prof. Code §2761(a))

20 14. Respondent has subjected his Registered Nurse License to disciplinary action for
21 unprofessional conduct under Code section 2761(a). The circumstances are as follows:

22 a. On or about October 14, 2008, in Milpitas, California, Respondent was pulled over
23 by a Milpitas Police Department (MPD) Officer after the officer observed Respondent driving his
24 vehicle, a 2006 Honda, in an erratic manner. The officer made contact with Respondent while he
25 was sitting in the driver seat. The officer immediately noticed an alcohol odor coming from
26 Respondent's vehicle. The officer also noticed that Respondent's eyes were red and glassy. The
27 officer asked Respondent for his driver's license and registration, and Respondent complied. The
28 officer returned to his vehicle and waited for another MPD officer to arrive. Another MPD
29 Officer arrived and both officers made contact with Respondent again. This time, one of the
30 officers asked Respondent to exit the vehicle. The officer smelled a odor of alcohol that seemed

1 to be coming from Respondent's breath. When asked how much he had had to drink, Respondent
2 said that he had one glass of wine. The officer observed that Respondent was swaying while he
3 was standing. The officer then requested Respondent to perform field sobriety tests (FST's) such
4 as the Horizontal Gaze Nystagmus test (to detect involuntary jerking of the eyes), the finger
5 dexterity test, and the line walking test. In checking Respondent's Nystagmus, the officer noticed
6 that Respondent had horizontal Nystagmus and a lack of "smooth pursuit." Respondent did not
7 perform the FST's satisfactorily. One of the officers offered Respondent the "PASS" test, where
8 his blood alcohol content (BAC) would be tested by blowing into a breathalyzer. Respondent
9 agreed to take the PASS test, however, Respondent appeared to be intentionally trying to defeat
10 the test by not following the officer's directions. Respondent acted like he was blowing air, when
11 he really was not. After several attempts, Respondent finally provided a useable air sample. The
12 PASS test showed that Respondent had a BAC of .13 percent.

13 b. Based on Respondent's performance during the FST's and based on the officers'
14 objective observations, the first officer at the scene arrested Respondent for driving under the
15 influence of alcohol. After some resistance, Respondent finally agreed to take a blood test. The
16 officer transported Respondent to the station for further processing. Respondent advised the
17 officer that Respondent was having chest pain. Because Respondent was still under arrest,
18 another MPD Officer attempted to remove all of Respondent's property from his person.
19 Respondent had a small silver object hidden in his hand. Respondent said it was a recorder and
20 would not let it go. The officer tried to forcibly take it from him but Respondent resisted. After a
21 struggle, Respondent broke the object in half. After Respondent realized the object was broken,
22 he released his grip. The object was a recorder. Respondent was transported to a medical center
23 for further treatment. At the hospital, a laboratory technician took a blood sample from
24 Respondent. Respondent was disruptive at the hospital and was eventually released. The officer
25 booked Respondent into the main county jail.

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1 SIXTH CAUSE FOR DISCIPLINARY ACTION

2 (Conviction)
3 (Bus. & Prof. Code §2761(f))

4 15. Respondent has subjected his Registered Nurse License to disciplinary action
5 under Code sections 490 and 2761(f) and California Code of Regulations, title 16, section 1444 in
6 that he was convicted of a crime substantially related to the qualifications, functions, or duties of
7 a registered nurse. Specifically, on or about February 2, 2009, in the Superior Court of
8 California, County of Santa Clara, Case Number CC824982, entitled *The People of the State of*
9 *California v. Joshua Patrick Seymour*, Respondent was convicted by his plea of nolo contendere
10 of violating Vehicle Code section 23152(b) (driving with a blood alcohol content of .08% and
11 more), a misdemeanor. Respondent was placed on probation for three years upon terms and
12 conditions, which included, but were not limited to, serving six days in county jail, enrolling in a
13 3 month first offender DUI program within 30 days, and not going to a place where alcohol/drugs
14 sold.

15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking or suspending Registered Nurse License Number 666988, issued to Joshua
19 Patrick Seymour, also known as Joshua P. Seymour (Respondent);

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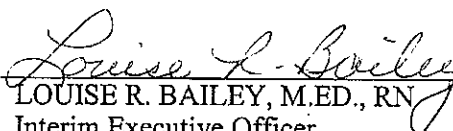
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1 2. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of
2 the investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3; and

4 3. Taking such other and further action as deemed necessary and proper.
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6 DATED: _____

5/12/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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